S.B. CIVIL WRIT PETITION NO.6208/2005

Udaram Mahendrapal Choudhary
vs.
State of Rajasthan and others.

Date : 21.10.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Anjay Kothari, for the petitioner.

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Heard learned counsel for the petitioner.

According to learned counsel for the petitioner, a show cause notice dated 15.10.2005 was issued by Assistant Commercial Taxes Officer, Shahjhapur to which the petitioner submitted objections on 17.10.2005 but the same are not decided by him. Learned counsel for the petitioner submits that no penalty can be imposed upon the petitioner in view of the Division bench judgment of this Court delivered in State of Rajasthan & Anr. vs. Tajiander Pal (D.B. Civil Special Appeal (W) No.785/2002, therefore, direction may be issued to the concerned ACTO to decide the objection of the petitioner.

The notice was issued only on 15.10.2005 and objections were submitted on 17.10.2005 and the writ petition has been filed on 20.10.2005 without waiting for the decision of the concerned Assistant Commercial Taxes Officer. However, in the facts and circumstances of the case, the Assistant Commercial Taxes Officer, Shahjhapur is directed to decide

the matter which he initiated by issuing notice under Section 78(4)(a) after carefully considering the judgment of this Court referred above within a period of one week from the date submitting copy of this order before him.

With the aforesaid observations, this writ petition is disposed of.

(PRAKASH TATIA), J.

S.Phophaliya